



CITY OF SUNNYVALE REPORT Planning Commission

June 12, 2006

SUBJECT: **2005-1185 – The Olson Company** [Applicant] **W T J & D Associates** [Owner]: Application for related proposals on a 145,600 square-foot site located at **698 East Taylor Avenue** (near Britton Avenue) in an M-S/ITR/R-3/PD (Industrial & Service/Industrial to Residential/Medium Density Residential/Planned Development) Zoning District;

Motion Special Development Permit to allow 68 Town Homes

Motion Tentative map for 20 parcels (12 building lots and 8 common lots).

REPORT IN BRIEF

Existing Site Conditions Five industrial buildings

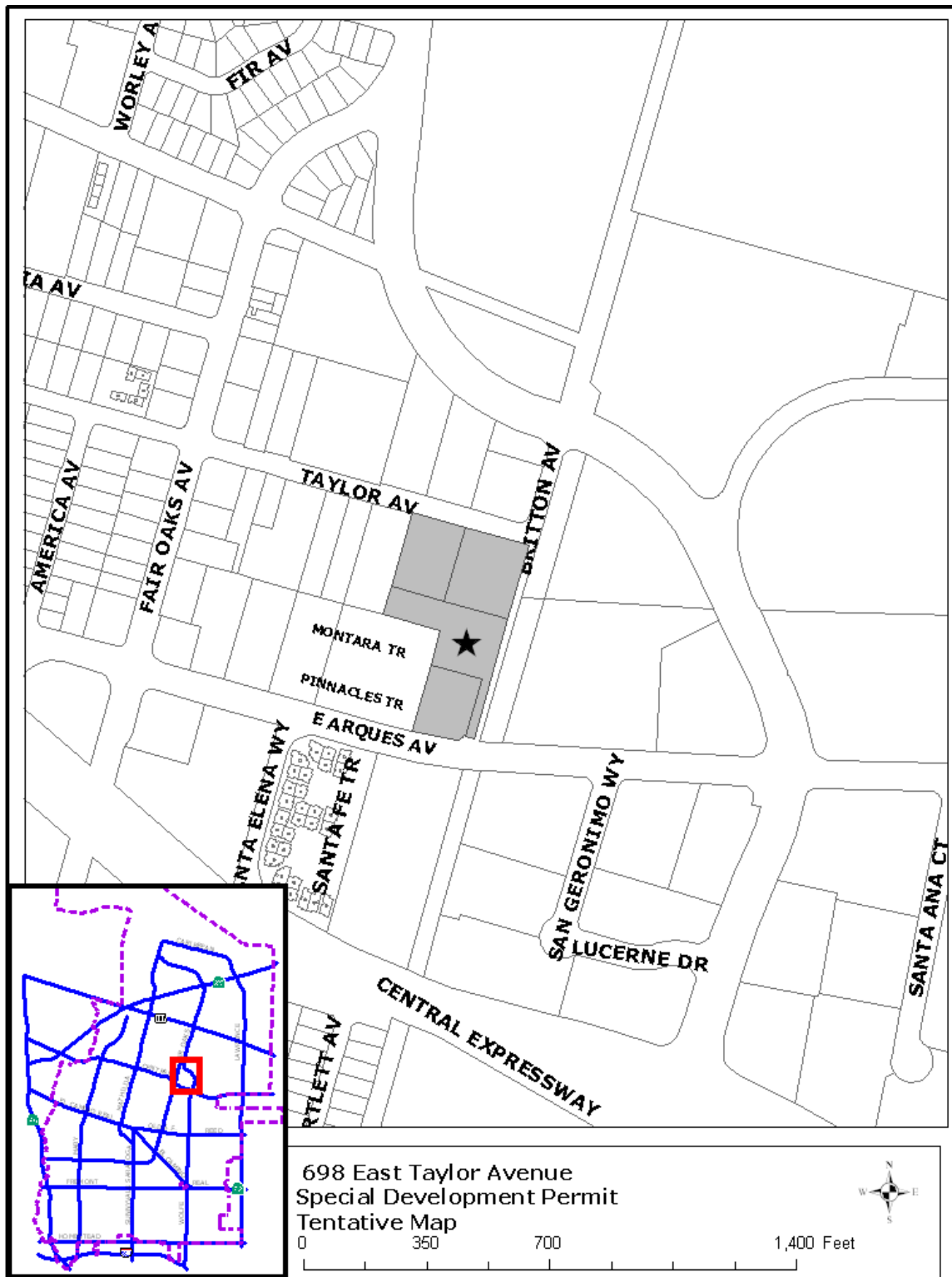
Surrounding Land Uses

North	Industrial and manufacturing uses
South	Multi-family residential and office buildings
East	Storm drain channel and high density multi-family residential
West	Multi-family residential

Issues Compatibility of the proposed project with the surrounding uses.

Environmental Status A Mitigated Negative Declaration has been prepared in compliance with California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Approval with conditions



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Industrial to Residential Medium Density	Same	N/A
Zoning District	MS/ITR/R-3/PD	Same	N/A
Lot Size (s.f.)	154,638	147,315 (Taylor street dedication)	8,000 min.
Gross Floor Area (s.f.)	29,416	138,602	N/A
Lot Coverage (%)	18%	37%	40% max.
Floor Area Ratio (FAR)	19%	94%	N/A
No. of Units	5	68	81 max.
Density (units/acre)	N/A	20	24 du/ac max.
Meets 75% min?	Yes	Yes	60 min.
Lockable Storage/Unit	None	Covered garages	300 cu. ft. min.
No. of Buildings On-Site	5	12	N/A
★ Distance Between Buildings (ft.)	15'	24' min	26' min.
★ Building Height (ft.)	22'	37'	30' max.
★ No. of Stories	2	3	3 max.
Setbacks (First & Second Stories Facing Property)			
★ • Front on Arques (minimum and average)	25'	19' 8" min. 25' avg.	15' min. 20' avg.
★ • Left Side (1st, 2nd, 3rd stories)	0'	9' / 9' / 9'	6' / 9' / 12'
• Right Side (1st, 2nd, 3rd stories)	50'	20' / 20' / 20'	9' / 12' / 15'
• Total Side-Yard (1st, 2nd, 3rd stories)	50'	29' / 29' / 29'	15' / 21' / 27'
★ • Front on Taylor	25'	18' 6" min. 19' 6" avg.	15' min 20' avg.
Landscaping (s.f.)			
• Total Landscaping	2,000	35,963	28,900 min.
• Landscaping/Unit	N/A	529	425 min.
• Usable Open Space/Unit	N/A	520	400 min.
★ • Frontage Width (ft.)	0	15' average	15' min.

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
• % Based on Floor Area	5%	26%	20% min.
• Parking Lot Area Shading (%)	5%	50%	50% min. in 15 years
• Water Conserving Plants (%)	N/A	70%	70% min.
• Clubhouse (s.f.)	N/A	312	225
Parking			
• Total Spaces	19	173	170 min.
• Standard Spaces	19	161	160 min.
• Compact Spaces/ % of Total	0	12/ 32%	35% max.
• Accessible Spaces	0	2	2 min.
• Covered Spaces	0	136	136 min.
• Aisle Width (ft.)	25'	28'	24' min.
• Bicycle Parking	0	4	4 Class II spaces

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

ANALYSIS

Description of Proposed Project

The applicant is requesting approval of a Tentative Map to subdivide four parcels, totaling 3.38 acres, into 20 lots (i.e. 12 building lots and eight common lots), and a Special Development Permit (SDP) to allow for construction of 68 town homes in 12 separate buildings. Private streets will extend through the site and provide access to private garages for each unit.

The project will include the required 12.5% Below Market Rate (BMR) units, for nine units, pursuant to the Sunnyvale Municipal Code (SMC) Section 19.66.020 (see BMR Conditions of Approval in Attachment B).

The following is a summary of the proposed sizes and square footages for the units. The unit sizes includes the garage areas:

Unit Type	Number of Units	Unit Type	Unit Sizes
Plan 1	44	3 Bedroom	1,965 sf
Plan 2	4	3 Bedroom	2,055 sf
Plan 3	20	4 Bedroom	2,077 sf

Background

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
1996-0917	60 foot high monopole for 12 panel antennas	Planning Commission	10/6/96
1951-0268	Original building permit for the industrial buildings on site	N/A	N/A

A study issue (Futures Study) allowing the development of residential units in areas zoned for industrial use was completed in 1993 to address ongoing housing shortages. As a result of the study, City Council approved a Rezone, which added the Industrial to Residential (ITR) Combining District and the R-3 designation to the existing M-S Zone. The ITR Combining District allows industrial, office, commercial and residential uses to exist within the same zoning district, and allows existing industrial, office and commercial sites to convert to residential use. The R-3 district defines the residential density and development standards.

Environmental Review

A Mitigated Negative Declaration has been prepared in compliance with the California Environmental Quality Act provisions and City Guidelines. An initial study has determined that the proposed project would not create any significant environmental impacts (See Attachment D).

Noise: The City currently has two documents on record relating to noise at this site. The first is the Program Environmental Impact Report that was completed for the ITR Future Sites in 1993. This document analyzed the potential noise impacts of future residential uses in the existing industrial zones and concludes that there would not be a mixed-use noise impact for this future residential site (Site 6a). The Program EIR also concluded that additional site-specific environmental review may be necessary at the time development applications are submitted. The second document on record is the City's Noise Sub-element, which provides the current and future noise environment in Sunnyvale. The Sub-element shows the noise conditions at specific sites and provides acceptable decibel (dB) levels.

Staff requested the applicant submit a noise study for this project due to potential noise impacts from East Arques Avenue and surrounding industrial uses. The noise study is intended to serve two primary functions; first, to disclose

all information relating to possible noise impacts at the site, and second, to determine if mitigation measures are required for the project.

The applicant submitted a noise study prepared by Charles M. Salter Associates, Inc. (see Attachment C), analyzing the existing exterior noise levels at the site on October 25 and 26, 2005. The study measured the noise levels at the property lines along East Taylor and East Arques Avenues. The measurement occurred over two, 24-hour period and the results are presented as averages (DNL). According to the noise study, noise levels along Arques are the most significant and reached a DNL of 72dB. The levels along Taylor reached DNL of 61dB. To account for a future traffic increase, 1dB was added for total noise levels of DNL 73dB and 62dB.

When determining if noise generated from adjacent streets is at acceptable levels for a project, the Noise Sub-element of the General Plan is typically applied to projects. The Sub-element requires that interior noise levels should not exceed a maximum DNL of 45dB when there is an exterior noise level of 60dB or greater. In this case, the noise level generated from Arques reached DNL 72dB and Taylor reached DNL 62dB, therefore, the noise needs to be attenuated through standard construction techniques, so that the interior noise level is DNL 45dB or less. This will be accomplished through mitigation measures that have been included in the conditions of approval.

The Sub-element also states that an exterior noise level of DNL 60dB should attempt to be achieved for all outdoor recreation areas, backyards, patios, and large balconies in residential projects. The DNL 60dB is not a mandatory requirement but a policy of the Sub-element that should be achieved through project design, site planning, and noise mitigation. In this case, the outdoor usable open space and community clubhouse have been sited near the center of the project, furthest from both Taylor and Arques Avenues. In this location, the recreation areas will be shielded from surrounding road and industrial noise by the new buildings, which will function as noise buffers.

Hazardous Materials: The applicant submitted a Phase I, Phase II, and Human Health Risk Assessment studies for the four subject properties. These studies were completed by SECOR International Incorporated in 2005.

The purpose of the Phase II study was to assess the extent of soils and groundwater impacts from a former TCE vapor degreaser, a former gasoline UST, and other machinery located throughout the properties. The Human Health Risk Assessment evaluated the suitability of the site for town homes and risk to future residents. The report determined that no significant remediation of the site is warranted and the site is well suited for the intended residential development purposes.

The California Regional Water Quality Control Board (RWQCB) has reviewed this project and issued a preliminary approval letter to the applicant. The RWQCB will require their own permit approvals prior to the start of construction and retains final approval authority over all modifications to the mitigation system currently on site. RWQCB is considered the lead agency during grading and excavation for any remediation on site.

Special Development Permit

Present Site Conditions: The project site is comprised of four separate parcels and currently occupied by five industrial buildings; all buildings are proposed for demolition as part of this application. The two buildings at 695 East Arques are currently occupied by an industrial manufacturing business (T&M Manufacturing). The two buildings fronting Taylor are occupied by light industrial manufacturing business and automotive repair.

Use: The proposed project consists of 68 ownership condominium units at a density of 20 units/acre. The maximum allowed density under the R-3 Zoning designation is 24 units/ acre for a maximum number of 81 units. A 68-unit project satisfies the housing goal of achieving at least 75 percent of the maximum allowable density (18 units/acre).

Site Layout: The proposed development meets the overall lot coverage standards at 37% where 40% is the maximum allowed. There is no maximum Floor Area Ratio for projects in the R-3 Zoning District.

The project's 68 units are arranged into 12 buildings on the site. The applicant has worked with staff to address the project's compatibility with the adjacent town house development. The buildings and driveways have been closely aligned with the existing project to minimize the impacts. The common open space areas are centered near the ends of the pedestrian paseos leading between the units. The community clubhouse is located near the center of the site. A new private drive is proposed to lead across the site from Arques to Taylor Avenues. The applicant is also proposing decorative paving to be installed on this drive, near the entrance of the site, and at strategic points along the driveway to add visual interest to the development as well as provide pedestrian travel paths.

The following Guidelines were considered in analysis of the project site design:

Design Policy or Guideline (Site Layout)	Comments
City Wide Design Guidelines Site Design B9: Residential projects may have a primarily internal orientation for privacy, providing the site is visually linked with its surroundings by appropriate use of landscaping and building siting.	The proposed project offers private open space to each unit and internal circulation through a private drive. Additional landscaping to the site will provide an attractive overall streetscape.

Surrounding Uses: The subject site is adjacent to a new multi-family residential development (Classic Communities) to the west. A portion of the west side also abuts an industrial property. To the east are the Santa Clara Valley Water District (SCVWD) storm drain channel and the existing Avalon Apartments at Parkside Commons (96-unit high density residential). Across Taylor to the north are light industrial buildings which are a part of the same ITR zone.

Pedestrian Access: Currently there are no direct pedestrian access points connecting the project site and the Classic Community site or the SCVWD channel. SCVWD met with city staff and stated that access to the channel is not possible at this time but it may become a possible trail in the future. This trail is pending a comprehensive review and improvement of the channel for its entire length. The applicant has attempted to create connectivity points to the Classic Community project, as shown on the site plan. This connection has not been finalized at the time of this report due to a lengthy process with the homeowner's association at the Classics project. The applicant will provide an update at the Planning Commission hearing. The access point has been included as a condition of approval.

Architecture: The proposed architecture is similar to a Spanish or Monterey style. The structures will consist of wood and stucco materials for the exterior siding and clay tiles for the roof materials. The units fronting on Taylor and Arques Avenues will present towards the street to help create a more traditional residential streetscape. Overall, staff believes the applicant has met the goals of the City-Wide Design Guidelines with the proposed architecture and that the styling is consistent with the Spanish form of architecture.

Staff is recommending one modification to the proposed plans. The left elevations are somewhat plain and unadorned, particularly between the first and second story levels. Staff is recommending a condition of approval for a short roofline or other distinguishing feature be added between the two stories to add visual interest.

The maximum height of the buildings, as measured from the top of curb on Arques and Taylor Avenues is 37' for all buildings. Building height deviations are not uncommon in R-3 Zoning District town house developments, as it is otherwise difficult to meet the minimum density requirement of 75% and provide required parking, open space, and site circulation; particularly when townhouse style development includes two car garages.

Color Scheme: In response to concerns raised by some of the Planning Commissioners at a Study Session regarding the proposed color scheme and differentiation of units, the applicant is exploring alternative color palettes and stucco textures for the project. New color renderings and a color and materials board will be presented at the Commission meeting.

The following Guidelines were considered in the analysis of the project architecture:

Design Policy or Guideline (Architecture)	Comments
City Wide Design Guidelines Scale and Character B1: Break up large buildings into groups of smaller segments whenever possible, to appear smaller in mass and bulk.	The proposed building design uses articulation and colors in order to visually break up the buildings by unit.
Scale B2: Adjacent buildings shall be compatible in height and scale.	The adjacent project is a similar, three-story town house development.
Architecture and Design C1: Maintain diversity and individuality in style but be compatible with the character of the neighborhood.	The Spanish style of the project will be unique relative to the adjacent town house project (Craftsman style), but will be compatible with the character of the surrounding neighborhood through density, scale, and mass.
Architecture C9: Include decorative building elements in the design of all buildings. Add more interest to buildings by incorporating changes in wall plane and height, etc.	The architecture of the buildings has a number of design elements that create a high-quality product, including front door details, window grids, iron pot shelves, patio walls, wood trellis features over the garage doors, etc.

Landscaping: Residential uses within the R-3 Zoning District are required to provide a minimum average of 400 square feet of usable open space and 425

square feet of landscaping per unit. The project meets the requirement for usable open space with 520 square foot per unit. The site also provides adequate landscaping area with 529 square foot of landscaping per unit.

Currently there is minimal landscaping on site including only 10 trees. These trees are proposed for removal, and are not significant sized trees under SMC. The applicant is proposing to make substantial upgrades to the existing landscape areas. The project includes the installation of approximately 120 new trees of varying species and the addition of bushes and vines throughout the site. A landscaping/irrigation plan with types, quantities, and sizes of trees and shrubs has been submitted and can be found in Attachment E.

Use of Separation Wall: Sunnyvale Municipal Code requires a decorative masonry/sound wall separating residential and commercial uses. In this case, only a portion of the western property line would be required to have an eight foot high masonry wall, since the adjacent commercial building is a two story structure.

Clubhouse: All multifamily residential projects over 50 units are required to provide a community room. To meet this requirement, the applicant is proposing a clubhouse of 312 square feet where 225 is the minimum required. The building includes a kitchen and bathrooms for a total square footage of 360.

The following Guidelines were considered in analysis of the project landscaping:

Design Policy or Guideline (Landscape)	Comments
City Wide Design Guidelines Landscaping A2: Preserve and incorporate existing natural features, particularly trees, on a site into the landscape design of projects.	The site currently has minimal landscaping worthy of preserving. The project proposes to add new landscaping and trees which will further enhance the site.
Landscaping A4: Properly landscape all areas not covered by structures, driveways, and parking.	The site meets the total landscaping requirement for each unit and will provide approximately 120 new trees throughout the site.
Site Organization B14. Design multi-building residential complexes to differentiate between private, semi-private, and common spaces through building placement, landscaping, etc. Delineate each space for proper use and access by residents.	The site design creates a combination of private, semiprivate, and common landscape areas. The areas are properly delineated thorough the use of low patio walls and pathways, to allow proper use and access by residents.

Design Policy or Guideline (Landscape)	Comments
Open Space C8. Provide direct access to common useable open space from buildings. Common open spaces shall be useable for recreational purposes.	The internal pathways provide direct access between buildings, parking areas, and open spaces. The common open spaces provide recreational opportunities and a clubhouse for community meetings.

Below Market Rate (BMR): This project will provide nine Below Market Rate (BMR) units to meet the City's requirement of allocating 12.5% of new ownership housing units as BMR units. The BMR units will be selected in accordance with the City of Sunnyvale Below Market Rate Housing Program Administrative Procedures. The applicant has signed a BMR Standard Permit Conditions document.

Required Storage: Sunnyvale Municipal Code 19.38.040 requires multi-family residential projects to provide a minimum of 300 cubic feet of separate, lockable, and weatherproof storage space. This project meets this requirement by providing every unit with two car garages as well as enclosed storage areas on the garage level.

Parking/Circulation: The project complies with the Zoning Code's minimum required parking standards by providing two covered spaces per unit for a total of 136 spaces and 37 surface parking guest spaces (1/2 space per unit). Each unit will have direct access from the living area of the individual unit into its attached garage.

All garages are proposed to have 28' back-up distance where 24' is the minimum required. Staff is recommending a condition of approval that would require the driveways to be reduced to 24' to allow the pedestrian paseo areas to be expanded by eight feet. The paseo expansion will have a significant beneficial effect on the overall open space area for the project. The reduction in paved area is also desirable.

Bicycle Parking: The enclosed two car garages will meet SMC requirements for secured bicycle parking. The applicant is providing four bicycle racks (rate of 1:15 units) in two locations on site.

Trash Enclosure: SMC requires that multi-family uses, of four or more units, have centralized trash and recycling enclosures at the site. The applicant has incorporated four centralized enclosures on site, both with dumpsters and recycling containers which meet SMC requirements.

Stormwater Management: This project requires compliance with the new Stormwater Management requirements. The City of Sunnyvale requires Stormwater Management Plans to be certified by a qualified third party consultant prior to issuance of building permits. The applicant has been advised of the associated Stormwater Management Plan costs and responsibilities for construction and long term maintenance and reporting. The applicant has provided a preliminary plan that indicates generally how they will comply. Staff finds the initial submittal sufficient; however, a third-party certified set of plans will be required prior to issuance of Building permits.

Easements/Undergrounding: All existing and new services are required to be undergrounded.

Tentative Map

General: The proposed project requires a Tentative Map to subdivide four parcels, totaling 3.38 acres into 20 lots.

Access: All units obtain vehicular access from the central, two-way driveway leading from Arques to Taylor Avenue. Utilities will be placed underground in the common lot via a public utilities easement.

Compliance with Development Standards

Requested Deviations	Justifications
<ul style="list-style-type: none"> • Building heights of 37' where 30' is the maximum allowed • Three stories where only two is allowed by code • A side yard setback of 9' at the third story where 12' is the minimum • A front yard setback on Taylor of 19' 6" average where 20' average is the minimum • The distance between building is 24' where 26' is the minimum 	<ul style="list-style-type: none"> • Building height deviations are typical for town house projects recently approved in Sunnyvale. • This requirement will change to three stories after June 14, 2006. • Site layout allows for efficient circulation/parking. • This project exceeds the minimum landscape and usable open space requirements. • Greater open space in the pedestrian paseo area is achievable if the streets are narrowed to 24' wide.

<ul style="list-style-type: none">• The landscape frontage width is less than 15' min.	<ul style="list-style-type: none">• The front elevations are articulated so that some portions encroach as close as 10' and some are greater than 20'. The average width is 15'
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Staff believes this project provides a higher level of architectural quality, increased average open space and landscaping per unit, a compatible residential use with the surrounding uses and additional ownership opportunities that would not be available if the project were required to comply with the standards noted. Staff finds adequate justification to approve the requested deviations with the Recommended Conditions of Approval.

Expected Impact on the Surroundings

The proposed project will lead to an increase in the intensity of the site. No significant traffic or noise impacts are expected as a result of the project. The main impact will be visual, as three-story structures will change the look of the site from the street and from the two adjacent residential properties. The applicant has worked with staff to address the project's compatibility with the existing neighborhood and to minimize the impacts. Staff finds that the proposal will not create a compatibility issue in the neighborhood and finds the architectural style suitable for the surrounding neighborhood.

Fiscal Impact

Transportation Impact Fee

There would be a net increase in the trip generation at this site with a Traffic Impact Fees estimated at \$23,826.95 required prior to recordation of the Final Map.

Park Dedication Fee

This project is subject to Park Dedication Fees. The park dedication fees for this project are \$7,350.75 per unit. This fee shall be collected prior to action on a Final Map.

Public Contact

Planning Commission Study Session: A Planning Commission study session was held for the item on March 22, 2006. At that meeting, the Planning Commission expressed concern over the following issues: exterior finish (colors, use of foam trim, roofline variation, stucco texture) and site plan (connection to Classic Communities, front yard setback on Taylor less than 20').

The applicant modified the plans subsequent to that meeting in an attempt to respond to the Commission's comments. The following changes were incorporated: a new proposed exterior color scheme, no foam trim will be used, the front yard on Taylor has been increased to 19'6" average, and a pedestrian connection with Classic Communities is being formalized.

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> Published in the <i>Sun</i> newspaper Posted on the site 112 notices mailed to the property owners and residents within 300 ft. of the project site 	<ul style="list-style-type: none"> Posted on the City of Sunnyvale's Website Provided at the Reference Section of the City of Sunnyvale's Public Library 	<ul style="list-style-type: none"> Posted on the City's official notice bulletin board City of Sunnyvale's Website

Conclusion

Discussion: Staff believes that this project provides a high quality residential project with the following benefits to the City: increased average open space and landscaping per unit; nine new Below Market Rate housing units; and, additional ownership opportunities. Staff finds adequate justification to recommend approval of the requested deviations with the Recommended Conditions of Approval.

Findings and General Plan Goals: Staff was able to make the required Findings based on the justifications for the Special Development Permit. Findings and General Plan Goals are located in Attachment A.

Recommended Conditions of Approval: Conditions of Approval are located in Attachment B.

Alternatives

1. Adopt the Mitigated Negative Declaration and approve the Special Development Permit and Tentative Map with the attached conditions.
2. Adopt the Mitigated Negative Declaration and approve the Special Development Permit and Tentative Map with modified conditions.
3. Adopt the Mitigated Negative Declaration and deny the Special Development Permit and Tentative Map.
4. Do not adopt the Mitigated Negative Declaration and direct staff as to where additional environmental analysis is required.

Recommendation

Alternative 1.

Prepared by:

Steve Lynch
Project Planner

Reviewed by:

Gerri Caruso
Principal Planner

Reviewed by:

Trudi Ryan
Planning Officer

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Acoustical Analysis prepared by Charles M. Salter Associates, Inc., dated November 7, 2005
- D. Mitigated Negative Declaration
- E. Site and Architectural Plans

General Plan Goals and Policies

Housing and Community Revitalization Sub-element

Policy A.2: *All new residential developments should build at least 75 percent of the permitted density.*

The proposal exceeds this policy with 68 housing units, where 60 units would meet the 75 percent minimum allowed.

Policy C.1: *Continue efforts to balance the need for additional housing with other community values, such as preserving the character of established neighborhoods, high quality design, and promoting a sense of identity in each neighborhood.*

The project provides needed housing opportunities within a neighborhood where some residential services are within walking proximity. The multi-family style of housing is compatible with the adjacent land uses.

Goal D: *Maintain diversity in tenure, type, size, and location of housing to permit a range of individual choices for all current residents and those expected to become city residents.*

The project provides additional ownership opportunities within a multi-family style of residential development.

Goal E: *Maintain and increase housing units affordable to households of all income levels and ages.*

The proposal meets this goal with 59 market rate units and 9 new BMR units.

Land Use and Transportation Element

Policy C2.2: *Encourage the development of ownership housing to maintain a majority of housing in the city for ownership choices.*

This project achieves this policy with 68 ownership housing units.

Policy N1.2: *Require new development to be compatible with the neighborhood, adjacent land uses and the transportation system.*

The project site is situated between an existing medium density multi-family use and a high density residential project.

Community Design Sub-element

Policy C.4: *Encourage quality architectural design, which improves the City's identity, inspires creativity, and heightens individual as well as cultural identity.*

The proposed architecture incorporates high quality design and significantly improves the visual appearance of the site.

Recommended Findings - Special Development Permit

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale.

The project meets the goals and policies of the General Plan, as enumerated above.

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either, the orderly development of, or the existing uses being made of, adjacent properties.

The proposed architecture meets the City-Wide Design Guidelines, will be a benefit to ITR district, and will compliment the surrounding uses.

Recommended Findings - Tentative Map

Staff is able to make the finding that the Tentative Map, with the Recommended Conditions of Approval is in conformance with the Sunnyvale Municipal Code and recommends approval of the map as attached.

The condominium subdivision, together with the provisions for its design and improvements, is consistent with the objectives, policies, general land uses and programs of the General Plan. The project, in conjunction with an approved Special Development Permit, meets the overall density allowed in the proposed R-3 Zoning District and supports a land use that is compatible with the surrounding neighborhood. The project also meets the goals and policies of the General Plan, as enumerated above.

However, the approving authority shall deny the Tentative Map if it makes any of the following findings:

1. That the subdivision is not consistent with the General Plan.
2. That the design or improvement of the proposed subdivision is not consistent with the General Plan.

3. That the site is not physically suitable for the proposed type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.
8. That the map fails to meet or perform one or more requirements or conditions imposed by the "Subdivision Map Act" or by the Municipal Code.

Staff was not able to make any of the findings (1-8), and recommends approval of the Tentative Map.

Recommended Conditions of Approval - Special Development Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. Project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development, major changes may be approved at a public hearing.
- B. Any major site and architectural plan modifications shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing except that minor changes of the approved plans may be approved by staff level by the Director of Community Development.
- C. The Conditions of Approval shall be reproduced on the cover page of the plans submitted for a Building Permit for this project. Building Permit plans shall be accompanied by an annotated set of the conditions of approval indicating how the project complies with each condition.
- D. Complete plan check submittal required for the first Building Permit submittal; no partial sets are allowed.
- E. The Special Development Permit for the use shall expire if the use is discontinued for a period of one year or more.
- F. The Special Development Permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.
- G. To address storm water runoff pollution prevention requirements, an Impervious Surface Calculation worksheet is required to be completed and submitted for the California Regional Water Quality Control Board prior to issuance of a Building Permit.
- H. Santa Clara Valley Water District permits are required prior to demolition since this project is within 50 feet of the top of stream bank (Sunnyvale East Channel). Staff will assist in coordination of this process when the SDP is approved.
- I. A final Stormwater Management Plan is subject to the review of the Director of Community Development prior to issuance of a building permit.

- J. Prior to the competition of the Environmental Review, the City needs the California Regional Water Quality Board to review and provide a clearance form addressing the ground water/soil contamination.
- K. The existing telecommunications tower shall be removed prior to recordation of the Final Map or issuance of building permits.
- L. At least one pedestrian access point shall be provided between the subject project and the adjacent Classics at Fair Oaks project to the west. The applicant shall work with the Classics HOA to achieve these connections.

2. COMPLY WITH OR OBTAIN OTHER PERMITS

- A. Obtain necessary permits from the Development Permit from the Department of Public Works for all proposed off-site improvements.

3. ENVIRONMENTAL MITIGATION MEASURES

- A. In addition to complying with applicable City Codes, Ordinances, and Resolutions, the following mitigation measures are incorporated into the project to minimize the identified potential environmental impacts:

WHAT:

- 1. *The residential unit fronting on E. Arques Ave shall have ALL windows and doors (including side windows/doors) sound rated to a range of STC 34 or greater.*
- 2. *All other residential units shall have all windows and doors sound rated to a range of STC 28 or greater.*
- 3. *Since all windows and doors are required to be shut to achieve a DNL or 45dBA or less, ventilation or air conditioning systems must be incorporated to provide a habitable noise environment for all habitable space.*
- 4. *Permits must be obtained from the City of Sunnyvale, Bay Area Air Quality, and Regional Water Quality Control Board prior to demolition or construction.*

WHEN: These mitigation measures will be converted into conditions of approval for this Special Development Permit prior to its final approval by the City's Planning Commission. The conditions will become valid when the SDP is approved and prior to building permit issuance and enforced prior to building permit issuance.

WHO: The property owner will be solely responsible for implementation and maintenance of these mitigation measures.

HOW: The conditions of approval will require these mitigation measures to be incorporated into the construction plans.

- B. Submit plans for approval by the Director of Community Development showing the design and method by which continuous or recurrent noise will be buffered.
- C. Final construction drawings shall incorporate all noise mitigation measures as set forth under “Mitigation Measures.”
- D. Provisions of Title 25 of the California Administrative Code shall be satisfied with dependence on mechanical ventilation.
- E. Final plans shall bear the consultant’s signature.
- F. Acoustical tests shall be performed by the developer to demonstrate that an interior day and night average noise level of DNL 45dB is met on the finished units. Such test results shall be furnished to the Director of Community Development prior to occupancy of the units.

4. BMR (BELOW MARKET RATE UNITS)

- A. Comply with Below Market Rate Housing (BMR) requirements as noted in SMC 19.66.
- B. The project will provide 9 Below Market Rate ownership dwelling units in compliance with SMC 19.66.
- C. The developer shall submit a site plan to the Housing Officer for review. The plan will include a description of the number, type, size and location of each unit on the site. The Housing Officer will then determine the specific units to be obligated as Below Market Rate (BMR) unit(s). (BMR Administrative Guidelines)
- D. Prior to issuance of a building permit, the developer shall execute a Development Agreement with the City to establish the units. The rental/sale price of the BMR unit(s) is established at the time of the execution of the Development Agreement. (BMR Administrative Guidelines)
- E. All BMR dwelling units shall be constructed concurrently with non-BMR units, and shall be dispersed throughout the property and shall reflect the range in numbers of bedrooms provided in the total project and shall not be distinguished by exterior design, construction or materials. (SMC 19.66.020(c))
- F. Sixty days (60) days prior to the estimated occupancy date, the developer shall notify the Housing Division of the BMR units to be available. (BMR Administrative Guidelines)
- G. BMR Ownership Program - Developer and Buyer to execute “Addendum to Purchase Offer” prior to Occupancy Permit and provide copy to City. (BMR Administrative Guidelines)
- H. Ownership Units - Prior to Close of Escrow, a Deed of Trust between the City and the Buyer of the BMR unit shall be recorded to establish resale and occupancy restrictions for a 30-year period.

- I. The original sale price of BMR dwelling units shall comply with sales prices established by the City, which is revised annually. (SMC 19.66.040 (c))
- J. Below Market Rate dwelling units shall be offered for sale/rent only to persons qualified under the terms described in SMC 19.66.040 and 19.66.050 and described more fully in the Administrative Guidelines. (BMR Rental Units / BMR Ownership Program)
- K. Resale of BMR dwelling units shall comply with procedures set forth in SMC 19.66.060.
- L. In the event of any material breach of the Below Market Rate Program requirements and conditions, the City may institute appropriate legal actions or proceedings necessary to ensure compliance. (SMC 19.66.140)
- M. In the event that any of the Below Market Rate dwelling units or a portion thereof is destroyed by fire or other cause, all insurance proceeds therefrom shall be used to rebuild such units. Grantee hereby covenants to cause the City of Sunnyvale to be named additional insured party to all fire and casualty insurance policies pertaining to said assisted units. (BMR Administrative Guidelines)

5. CC&R's (CONDITIONS, COVENANTS AND RESTRICTIONS)

- A. Any proposed deeds, covenants, restrictions and by-laws relating to the subdivision are subject to review and approval by the Director of Community Development and the City Attorney. (Note: a homeowner's association and CC&R's are required for subdivision of 5 or more units only.)
- B. The developer/Owner shall create a Homeowner's Association that comports with the state law requirements for Common Interest Developments. Covenants, conditions and restrictions (CC&Rs) relating to the development are subject to approval by the City Attorney and Director of Community Development prior to approval of the Final Map. In addition to requirements as may be specified elsewhere, the CC&R's shall include the following provisions:
- C. Membership in and support of an association controlling and maintaining all common facilities shall be mandatory for all property owners within the development.
- D. The homeowners association shall obtain approval from the Director of Community Development prior to any modification of the CC&R's pertaining to or specifying the City.
- E. The developer shall maintain all utilities and landscaping for a period of three years following installation of such improvements or until the improvements are transferred to a homeowners association, following sale of at least 75% of the units, whichever comes first.
- F. The Conditions of Approval of this SDP.

- G. The CC&Rs shall contain the following language:
- H. “Right to Remedy Failure to Maintain Common Area. In the event that there is a failure to maintain the Common Area so that owners, lessees, and their guests suffer, or will suffer, substantial diminution in the enjoyment, use, or property value of their Project, thereby impairing the health, safety and welfare of the residents in the Project, the City, by and through its duly authorized officers and employees, will have the right to enter upon the subject Property, and to commence and complete such work as is necessary to maintain said Common Area. The City will enter and repair only if, after giving the Association and Owners written notice of the failure to maintain the Common Area, they do not commence correction of such conditions in no more than thirty (30) days from the giving of the notice and proceed diligently to completion. All expenses incurred by the City shall be paid within thirty (30) days of written demand. Upon a failure to pay within said thirty (30) days, the City will have the right to impose a lien for the proportionate share of such costs against each Lot in the Project.
- I. It is understood that by the provisions hereof, the City is not required to take any affirmative action, and any action undertaken by the City will be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare, and to enforce it and the regulations and ordinances and other laws.
- J. It is understood that action or inaction by the City, under the provisions hereof, will not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.
- K. It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law will be cumulative and not exclusive of the maintenance of any other remedy. In this connection, it is understood and agreed that the failure to maintain the Common Area will be deemed to be a public nuisance and the City will have the right to abate said condition, assess the costs thereof, and cause the collection of said assessments to be made on the tax roll in the manner provided by appropriate provisions of the Sunnyvale Municipal Code or any other applicable law.
- L. No Waiver. No failure of the City of Sunnyvale to enforce any of the covenants or restrictions contained herein will in any event render them ineffective.
- M. Third-Party Beneficiary. The rights of the City of Sunnyvale pursuant to this Article will be the rights of an intended third party beneficiary of a contract, as provided in Section 1559 of the

California Civil Code, except that there will be no right of Declarant, the Association, or any Owner(s) to rescind the contract involved so as to defeat such rights of the City of Sunnyvale.

- N. Hold Harmless. Declarant, Owners, and each successor in interest of Declarant and said Owners, hereby agree to save, defend and hold the City of Sunnyvale harmless from any and all liability for inverse condemnation which may result from, or be based upon, City's approval of the Development of the subject Property."

6. DESIGN/EXTERIOR COLORS AND MATERIALS

- A. Prior to the issuance of a Building Permit the project shall be redesigned so that the left elevations of all the buildings shall have a roof line added between the first and second stories to break up the wall mass.
- B. Foam trim is not allowed in this project.
- C. Final exterior building materials and color scheme are subject to review and approval of the Planning Commission/Director of Community Development prior to issuance of a building permit.
- D. Roof material shall be 50-year dimensional composition shingle, or as approved by the Director of Community Development.

7. EASEMENTS AND DEDICATIONS

- A. Dedicate street for public right-of-way at East Taylor Avenue, in accordance with the approved Tract Map, prior to issuance of a Building Permit or Final Map.
- B. Dedicate public utility easement on site, in accordance with the approved Tract Map. Install these facilities per Department of Public Works requirements.

8. EXTERIOR EQUIPMENT

- A. Individual air conditioning units shall be screened with architecture or landscaping features. This screening shall be shown on the building plans.
- B. Any modification or expansion of unenclosed uses shall require approval from the Director of Community Development.

9. FEES

- A. Pay Traffic Impact fee estimated at \$23,826.95, prior to issuance of a Building Permit. (SMC 3.50)
- B. Pay estimated Park In-lieu fees estimated at \$7,350.75 per unit, for a total of \$499,851 prior to approval of the Final Map or Parcel Map. (SMC 18.10)

10. FENCES

- A. Design and location of any proposed fencing and/or walls are subject to the review and approval by the Director of Community Development.
- B. The landscape/patio walls shall not be higher than three feet, unless otherwise approved by the Director of Community Development.
- C. Such fences may extend along side property lines, but do not extend beyond the front line of the main building on each lot.
- D. Any side yard fence between the building and the public right-of-way shall not exceed three feet in height.
- E. The fence or wall shall not exceed three feet in height for a distance of 10 feet from the street right-of-way.
- F. For front yard fences in residential areas, open decorative type fences, such as picket, post and rail are preferred.
- G. Chain link and barbed wire fences are not allowed in residential areas.
- H. Install and maintain an 8 foot solid decorative masonry wall, measured from the highest adjoining grade, of a design approved by the Director of Community Development along the western property lines where the subject property abuts adjacent industrial uses. Wherever the grade differential is one foot or higher, a concrete or masonry retaining wall shall be installed.
- I. Only fences, hedges and shrubs or other natural objects 3 feet or less in height may be located within a “vision triangle” (For definition, refer to Vision Triangle brochure or SMC 19.12.040(16), SMC 19.12.050 (12))

11. LANDSCAPING

- A. Decorative paving as required by the Director of Community Development to distinguish entry driveways, building entries, pedestrian paths and common areas. Landscape and irrigation plans shall be submitted to the Director of Community Development subject to approval by the Director of Community Development prior to issuance of a Building Permit. Landscaping and irrigation shall be installed prior to occupancy. The landscape plan shall be consistent with the approved plan.
- B. Provide separate meter for domestic and irrigation water systems.
- C. The landscape plan shall including street trees and shall be submitted and approved per the City Arborist.
- D. All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition.
- E. Prepare a landscape maintenance plan subject for review and approval by the Director of Community Development

- F. Trees shall be allowed to grow to the full genetic height and habit (trees shall not be topped). Trees shall be maintained using standard arboriculture practices.
- G. Of new trees installed, at least 10% shall be 24-inch box size or larger and no tree shall be less than 15-gallon size.
- H. At the expense of the subdivider, City staff shall install required street trees of a species determined by the Public Works Department. Obtain approval of a detailed landscape and irrigation plan from the Director of Community Development (SMC 19.38.070) prior to issuance of a Building Permit.
- I. Ground cover shall be planted so as to ensure full coverage eighteen months after installation.
- J. All areas not required for parking, driveways or structures shall be landscaped.
- K. Provide decorative paving per the approved plans.

12. LIGHTING

- A. Prior to issuance of a Building Permit submit an exterior lighting plan, including fixture and pole designs, for approval by the Director of Community Development. Driveway and parking area lights shall include the following:
 - B. Sodium vapor (of illumination with an equivalent energy savings).
 - C. Pole heights to be uniform and compatible with the areas, including the adjacent residential areas. Light standards shall be of pedestrian scale and not be greater than 8 feet in height on the periphery of the project.
 - D. Provide photocells for on/off control of all security and area lights.
 - E. All exterior security lights shall be equipped with vandal resistant covers.
 - F. Wall packs shall not extend above the roof of the building.
 - G. Lights shall have shields to prevent glare onto adjacent residential properties.
- H. Prior to issuance of a Building Permit submit a contour photometric plan for approval by the Director of Community Development.
- I. Installation of lights at a minimum of 50 foot intervals along all private streets.

13. ON-SITE AMENITIES

- A. Swimming pools, pool equipment structures, play equipment and other accessory structures, except as otherwise subject to Planning Commission review, may be allowed by the Director of Community Development subject to approval of design, location and colors.

14. PARKING

- A. All driveways shall be reduced from 28' down to 24' to allow the pedestrian paseo areas to be expanded by eight feet.
- B. Indicate all guest-parking spaces on plans. Such spaces shall be clearly designated prior to occupancy in a manner approved by the Director of Community Development.
- C. All uncovered spaces shall be reserved as guest parking spaces and shall be so designated prior to occupancy.
- D. No parking space shall be offered for rent by the property owners or homeowners association.
- E. Garage spaces shall be maintained at all times so as to allow parking of two automobiles.
- F. Specify compact parking spaces on Building Permit plans. All such areas shall be clearly marked prior to occupancy, as approved by the Director of Community Development.
- G. Unenclosed storage of any vehicle intended for recreation purposes, including land conveyances, vessels and aircraft, but excluding attached camper bodies and motor homes not exceeding 18 feet in length, shall be prohibited on the premises.

15. BICYCLE PARKING

- A. Provide 4 Class II bicycle parking spaces (per VTA Bicycle Technical Guidelines) as approved by the Director of Community Development.

16. STREETS

- A. Dedicate private streets as emergency vehicle ingress-egress easements.

17. RECYCLING AND SOLID WASTE

- A. Submit a detailed recycling and solid waste disposal plan to the Director of Community Development for approval.
- B. All exterior recycling and solid waste shall be confined to approved receptacles and enclosures.
- C. The required solid waste and recycling enclosure shall match the design, materials and color of the main building.
- D. The enclosure shall be of masonry construction and shall match the exterior design, materials and color of the main building.
- E. All recycling and solid waste containers shall be metal or State Fire Marshall listed non-metallic.
- F. Remove all debris, structures, area light poles, and paving from the site prior to commencement of new construction.

18. RIGHT-OF-WAY IMPROVEMENTS

- A. Obtain a Development Permit from the Department of Public Works for improvements.

- B. Curbs, gutters, and sidewalks shall be installed on the Taylor and Arques street frontages.
- C. The dedicated portion of Taylor (for street widening) shall be paved by the developer.
- D. Curbs, gutters, sidewalks, streets, utilities, streetlights, traffic control signs, electroliers (underground wiring) shall be designed, constructed and/or installed in accordance with City standards prior to occupancy. Plans shall be approved by then Department of Public Works.

19. TRAILERS

- A. The temporary sales and construction trailer(s) shall be subject to following requirements:
- B. Trailer(s) shall be placed on the premises not sooner than 15 days following the date of City approval and shall be removed 30 days after the final unit is sold.
- C. Trailer entrance(s) shall be oriented towards the nearest building.
- D. Any variation from the location of the trailer(s), as represented by the submitted plan, shall be subject to approval by the Director of Community Development.
- E. Area lighting shall be provided in the vicinity of the trailer(s).

20. UNDERGROUND UTILITIES

- A. All proposed utilities shall be undergrounded, including facilities such as transformers.
- B. Applicant shall provide a copy of an agreement with affected utility companies for undergrounding of existing overhead utilities which are on-site or within adjoining rights-of-way prior to issuance of a Building Permit or a deposit in an amount sufficient to cover the cost of undergrounding shall be made with the City.

21. VEHICLES

- A. No vehicles or trailers shall be advertised for sale or rent on the site and nor vehicle sales, leasing or rentals shall be conducted at the site.

22. MISCELLANEOUS

- A. The clubhouse water heater shall be a tankless water heater.

23. TENTATIVE MAP CONDITIONS

- A. Full development fees shall be paid for each project parcel or lot shown on the Final Tract Map and the fees shall be calculated in accordance with City Resolutions current at the time of payment.
- B. Comply with all applicable code requirements as noted in the Standard Development Requirements.

